

AT *ITW*

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Re. Appellant: Thomas C. Mielenhausen
Serial No.: 09/309,831
Filed: May 11, 1999
For: DATA PROCESSING APPARATUS AND METHOD FOR CONVERTING
WORDS TO ABBREVIATIONS, CONVERTING ABBREVIATIONS TO
WORDS, AND SELECTING ABBREVIATIONS FOR INSERTION INTO
TEXT
Examiner: Cong Lac T. Huynh
Art Unit: 2178
Confirmation No.: 8013
Attorney: Nelson R. Capes
Attorney
Docket No.: 33197.8
Additional Fees: Charge to Deposit Account 023732

Mail Stop Appeal Brief-Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
Sir:

TRANSMITTAL COVER LETTER

Enclosed for filing please find the following:

1. Fee Transmittal for FY 2005 (1 pg.);
2. Applicant's Appeal Brief Under 37 C.F.R. § 41.37 (16 pgs.);
3. A check in the amount of \$250.00; and
4. Postcard receipt.

Respectfully submitted,

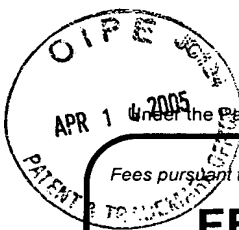
Dated: 4/12/05

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By *Nelson R. Capes*
Date 4/12/05



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FEE TRANSMITTAL for FY 2005

☒ Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT (\$) 250.00

Complete if Known

Application Number	09/309,831
Filing Date	May 11, 1999
First Named Inventor	Thomas C. Mielenhausen
Examiner Name	Cong Lac T. Huynh
Art Unit	2178
Attorney Docket No.	33197.8

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FEE CALCULATION

1. BASIC FILING, SEARCH, AND EXAMINATION FEES

Application Type	FILING FEES		SEARCH FEES		EXAMINATION FEES		Fees Paid (\$)
	Fee (\$)	Small Entity Fee(\$)	Fee(\$)	Small Entity Fee(\$)	Fee(\$)	Small Entity Fee(\$)	
Utility	300	150	500	250	200	100	_____
Design	200	100	100	50	130	65	_____
Plant	200	100	300	150	160	80	_____
Reissue	300	150	500	250	600	300	_____
Provisional	200	100	0	0	0	0	_____

2. EXCESS CLAIM FEES

Fee Description

Each claim over 20 (including Reissues)

Fee (\$)

50

Each independent claim over 3 (including Reissues)

200

Multiple dependent claims

360

Total Claims

Extra Claims

Fee(\$)

Fee Paid (\$)

_____ -20 or HP= _____ x _____ = _____

HP = highest number of total claims paid for, if greater than 20.

Indep. Claims

Extra Claims

Fee(\$)

Fee Paid (\$)

_____ - 3 or HP= _____ x _____ = _____

HP = highest number of independent claims paid for, if greater than 3.

Multiple Dependent Claims

Fee (\$)

Fee Paid (\$)

3. APPLICATION SIZE FEE

If the specification and drawings exceed 100 sheets of paper (excluding electronically filed sequence or computer listings under 37 CFR 1.52(e)), the application size fee due is \$250 (\$125 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).

Total Sheets	Extra Sheets	Number of each additional 50 or fraction thereof	Fee (\$)	Fee Paid (\$)
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Fees Paid (\$)

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SUBMITTED BY

Signature		Registration No. (Attorney/Agent)	37,106	Telephone	612-977-8486
Name (Print/Type)	Nelson R. Capes	Date	4/12/05		

This collection of information is required by 37 CFR 1.136. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 30 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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Sir:

APPELLANT'S APPEAL BRIEF UNDER 37 C.F.R. § 41.37

Appellant, by his attorney, submits one copy of this Appeal Brief, pursuant to 37 C.F.R. § 41.37 in further of the Appeal, the notice of which was filed with the United States Patent and Trademark Office on March 17, 2005, from the Final Rejection of claims 1-22 of the above-identified application, as set forth in the Final Office Action mailed on January 27, 2005. Appellant respectfully requests consideration and reversal of the Examiner's rejections of the pending claims.

CERTIFICATE OF MAILING

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By Nelson R. Capes
Date 4/12/05

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I. REAL PARTY IN INTEREST

The real party in interest is Thomas C. Mielenhausen.

II. RELATED APPEALS AND INTERFERENCES

An Appeal Brief was previously filed in this application on June 17, 2003. On September 16, 2003, a non-final Office Action was mailed, withdrawing the rejection of claims 1-22 which led to the Appeal and interposing new grounds of rejection. Appellant responded to this Office Action on December 15, 2003. On March 8, 2004, another non-final Office Action was mailed, again withdrawing the rejection to claims 1-22 and interposing yet another new ground of rejection.

III. STATUS OF CLAIMS

The present application was filed on May 11, 1999 with claims 1-22. A non-final Office Action was mailed March 8, 2004. A Final Office Action was mailed January 27, 2005. Claims 1-22 stand twice rejected, remain pending, and are the subject of the present Appeal.

IV. STATUS OF AMENDMENTS

No amendments have been made since the Final Office Action.

V. SUMMARY OF CLAIMED SUBJECT MATTER

The present invention is a data processing method (page 2, line 28) for maintaining and customizing a list of words, phrases, and abbreviations that are standard in a profession, industry, trade or occupation, for automatic insertion of abbreviations from the list into text, for converting selected words and phrases in the text to abbreviations, for converting selected abbreviations in the text into words and phrases, and for automatically converting a number of words and phrases to abbreviations, and abbreviations to words and phrases, throughout the text, comprising the steps of:

a) storing in a memory a first data structure (encoding a plurality of words and corresponding abbreviations; (page 3, line 5)

b) storing in a memory a second data structure encoding a plurality of abbreviations and corresponding words; (page 3, line 7)

c) selecting a word in the text to be converted to an abbreviation and converting the selected word to a corresponding abbreviation using the first data structure (page 3, line 9); and

d) selecting an abbreviation in the text to be converted to a word and converting the abbreviation to a word using the second data structure (page 3, line 12).

VI. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

Claims 1-22 were rejected as obvious under 35 U.S.C. § 103(a) over Ichbiah (5,623,406) in view of Goldwasser (5,096,423).

VIII. ARGUMENT

A. Claims 1-22 are not unpatentable under 35 USC 103(a) as being obvious over Ichbiah in view of Goldwasser.

The Examiner bears the initial burden of factually supporting any *prima facie* conclusion of obviousness.¹ If the Examiner does not produce a *prima facie* case, the applicant is under no obligation to submit evidence of non-obviousness.²

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all claim limitations. The teaching or suggestion to make the claimed combination and the reasonable

¹ MPEP Sec. 2141.

² Id.

expectation of success must both be found in the prior art, and not based on applicant's disclosure.³

Applicant respectfully traverses the § 103 rejection because the Office Action has not established a *prima facie* case of obviousness.

The references do not teach or suggest all the claim limitations.

1. Separate argument as to claim 1

Specifically as to claim 1, neither reference discloses the step:

c) selecting a word in the text to be converted to an abbreviation and converting the selected word to a corresponding abbreviation using the first data structure;

Applicant respectfully disagrees with the Office Action's statement that:

Recognizing the sequence of keypresses typed of a word that has a corresponding abbreviation according to the stored list of words and corresponding abbreviation; said recognizing inherently indicates that said word in the entered text is selected for converting to abbreviation based the stored list in memory...

Goldwasser does not teach "selecting" a word in the text to be converted to an abbreviation. Rather, Goldwasser discloses a method of teaching a computer user the abbreviations of words, phrases, and command sequences to remind the user of the existence of the abbreviation whenever the user neglects to use it. Col. 2 lines 40-44. In other words, Goldwasser prepares the user to enter abbreviations in the future that will be converted to text, not to convert text to abbreviations. The flowcharts of the Goldwasser patent (Figs. 6A-9C) disclose that the Goldwasser invention generally operates as follows: the user enters a keystroke; the invention concatenates the keystroke to previous keystrokes in a buffer; the invention tests for a delimiter (step 112); if a delimiter is found, the system compares the characters in the buffer to a stored sequence (step 114); then an associated pointer is used to find a corresponding abbreviation (step 116) which is then demonstrated to the user by

³ Id. (emphasis supplied)

highlighting the characters of the abbreviation, beeping, or pronouncing characters (step 118). The user does not "select" a word in the text in this disclosed method of operation. The American Heritage Dictionary, Second College definition defines "select" as follows:

To choose from among several; pick out; to make a choice or selection.

The drawings of Goldwasser (Figs. 1-5) show that the user is merely making data entry to existing text, not selecting a word in the existing text to be converted. In other words, the user does not choose from among several existing words or pick out a word from the existing text to be converted to an abbreviation. The only word that can be converted by Goldwasser is the single word that the user is currently entering. The user is not making an active choice.

In the Response to Arguments, the Examiner disagrees. As nearly as can be determined, the Examiner's position seems to be that at col. 2, line 56 to col. 3, line 27, Goldwasser discloses:

...the number of letters of a word or phrase that must be typed before the word or phrase will be displayed in a menu, and the position of the word or phrase in the menu, so that the user can add this word or phrase to the text by typing this number of letters and then selecting the word or phrase from the menu...the character of the longer sequence of text words which are part of the corresponding abbreviation or designate the appropriate menu can be highlighted...(Appellant's emphasis supplied)

This is correct, but the Examiner still continues to misunderstand that selecting a word or phrase from a menu of items generated when a user keys in a number of letters is not the claimed "selecting a word in the text to be converted to an abbreviation and converting the selected word to a corresponding abbreviation using the first data structure." As Appellant has been trying unsuccessfully to explain, Goldwasser does not disclose selecting a word in the text to be converted. The typist in Goldwasser is merely making data entry of a single word and is not selecting a word in the text to be converted. The above citation from Goldwasser clearly indicates that the object of Goldwasser is to teach the user how to "replace longer sequences of user actions with shorter sequences." (Abstract) That is, to enter abbreviations that will be converted to words, not vice-versa.

Furthermore, Goldwasser does not disclose conversion of a selected word to a corresponding abbreviation. The letters typed in Goldwasser are not "converted" but remain in the input buffer. See col 4 lines 28-53 and Figs. 1-3. In every case, the abbreviation is displayed in the text after the typed letters, not replacing the typed letters. In contrast, Appellant's claimed invention actually converts the selected word to an abbreviation. The American Heritage Dictionary defines "convert" as:

1. To change into another form, substance, state or product;
transform: *convert water into ice.*

Goldwasser does not meet this definition.

Claim 1 is therefore allowable.

Claims 2-14 contain additional elements or limitations beyond allowable claim 1 and are also allowable.

2. Separate argument as to claims 3-6

Regarding claims 3-6, Ichbiah does not select a word in the text to be converted to an abbreviation using a keyboard or a mouse. Col. 3 lines 63-65 only teaches displaying a list of words that have already been converted from abbreviations to the user for selection, in the event that more than one word corresponds to a given abbreviation. Ichbiah only converts abbreviations to words, not vice-versa, and therefore does not teach converting words to abbreviations.

In the Response to Arguments, the Examiner agreed but maintained that Goldwasser, in combination with Ichbiah, discloses converting words to abbreviations. As argued above, this is incorrect.

3. Separate argument as to claim 7

Further as to claim 7, the references do not disclose a step of scanning the text for words to be converted to abbreviations and converting words selected by the data processing method to corresponding abbreviations using the first data structure.

In the Response to Arguments, the Examiner states:

The fact that Ichbiah discloses recognizing an abbreviation to be converted to words and phrases when entering text data...suggests that the text data is scanned for recognizing an abbreviation to be converted to words and phrases. (Appellant's emphasis supplied)

Whether or not this is true is irrelevant. As Appellant has stated previously, Ichbiah does not teach scanning the text for and converting words to abbreviations regardless of the Examiner's position regarding its teaching of converting abbreviations to words.

4. Separate argument as to claim 13

Regarding claim 13, at page 3 of the Office Action, the Examiner states "Ichbiah does not explicitly disclose storing in memory a first data [structure] encoding a plurality of words and corresponding abbreviations." Therefore, the statement in the last full paragraph on page 6 of the Office Action is self-contradictory ("Ichbiah discloses selecting an abbreviation from the first data structure (abstract; col. 3 lines 50-65)..."). In any case, this is not the teaching of col. 3 lines 50-65. Rather, the teaching is of choosing one of a set of matching words generated from an abbreviation, not selecting the abbreviation and inserting the abbreviation into the text at a position selected by the user.

In the Response to Arguments, the Examiner disagrees. However, this is irrelevant. The self-contradictory statement of the Examiner in the Final Office Action indicates that the rejection should not have been made Final. The Examiner has admitted that "Ichbiah does not explicitly disclose storing in memory a first data [structure] encoding a plurality of words and corresponding abbreviations." This statement cannot be retracted.

5. Separate argument as to claim 15

Regarding claim 15, the references do not show the step:

b) the user instructing the data processing method to select a position in the text for insertion of an abbreviation...

The Final Office Action states that "independent claim 15 includes the same limitations as in claims 1, 9-10, and 13-14, and is rejected on the same rationale." However, the only rejection that addresses step b) is found in claim 13, which has already been shown

to be allowable as discussed above. Therefore, claim 15 is also allowable. Claim 16 contains additional elements or limitations beyond allowable claim 15 and is also allowable.

In the Response to Arguments, the Examiner disagrees, basically using the same argument as above in regard to claim 1. Appellant directs the Board to the section of this Appeal Brief regarding claim 1 to show that the Examiner is wrong concerning the teaching of Goldwasser. In addition, however, Goldwasser does not teach the user selecting a position in the text for insertion of the corresponding abbreviation. The abbreviation in Goldwasser is displayed to the user immediately following the entered characters. The user has no control over the position in the text at which the abbreviation is to be inserted.

The Final Office Action rejects claims 17 and 22 under the same rationale as method claims 1, 9-10, and 13. Since claims 1, 9-10, and 13 have been shown to be allowable, and the Office Action has not interposed any additional basis for disallowing claims 17 and 22, claims 17 and 22 are allowable.

The Final Office Action rejects claims 18-22 under the same rationale as method claims 7-8, 11-12. Since claims 7-8 and 11-12 have been shown to be allowable, and the Office Action has not interposed any additional basis for disallowing claims 18-22, claims 18-22 are allowable.

Finally, the Examiner has not applied the test of *Graham v. John Deere Co.*⁴ The MPEP requires the Examiner to do so.⁵ However, the Examiner has made no finding of the level of ordinary skill in the art.⁶

⁴ 383 U.S. 1 (1966)

⁵ MPEP § 2141

⁶ MPEP § 2141.03

VIII. SUMMARY

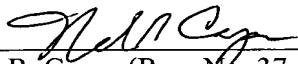
This case has been the subject of a previous Appeal, the claim rejections of which the Examiner withdrew and interposed new grounds of rejection. Subsequently, the Examiner has again withdrawn his rejections and interposed new grounds of rejection. In view of the foregoing, Appellant asks the Board to finally and completely overturn the Examiner's rejections and allow all claims, directing the Examiner to issue a Notice of Allowance without re-opening prosecution.

Respectfully submitted,

Thomas C. Mielenhausen

By his representatives,

Dated: 4/12/05

By 
Nelson R. Capes (Reg. No. 37,106)
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CLAIMS APPENDIX

The Claims on Appeal

IN THE CLAIMS:

1. (original): A data processing method for maintaining and customizing a list of words, phrases, and abbreviations that are standard in a profession, industry, trade or occupation, for insertion of abbreviations from the list into text, for converting selected words and phrases in the text to abbreviations, for converting selected abbreviations in the text to words and phrases, and for automatically converting a number of words and phrases to abbreviations, and abbreviations to words and phrases, throughout the text, comprising the steps of:

(a) storing in a memory a first data structure encoding a plurality of words and corresponding abbreviations;

(b) storing in a memory a second data structure encoding a plurality of abbreviations and corresponding words;

(c) selecting a word in the text to be converted to an abbreviation and converting the selected word to a corresponding abbreviation using the first data structure; and

(d) selecting an abbreviation in the text to be converted to a word and converting the abbreviation to a word using the second data structure.

2. (original): The method of claim 1, further comprising the step of adding to, editing, updating and customizing the first data structure and second data structure.

3. (original): The method of claim 1, wherein the word is selected by the user using a keyboard command.

4. (original): The method of claim 1, wherein the word is selected by the user using a mouse.

5. (original): The method of claim 1, wherein the abbreviation is selected by the user using a keyboard command.

6. (original): The method of claim 1, wherein the abbreviation is selected by the user using a mouse.

7. (previously amended): The method of claim 1, further comprising the step of scanning the text for words to be converted to abbreviations and converting words selected by the data processing method to corresponding abbreviations using the first data structure.

8. (original): The method of claim 1, further comprising the step of scanning the text for abbreviations to be converted to words and converting abbreviations selected by the data processing method to corresponding words.

9. (original): The method of claim 1, further comprising the steps of displaying a list of suggested abbreviations corresponding to the selected word and receiving input from the user to choose the desired abbreviation.

10. (original): The method of claim 1, further comprising the steps of displaying a list of suggested words corresponding to the selected abbreviation and receiving input from the user to choose the desired word.

11. (original): The method of claim 7, further comprising the steps of displaying a list of suggested abbreviations corresponding to the selected words and receiving input from the user to choose the desired abbreviation.

12. (original): The method of claim 8, further comprising the steps of displaying a list of suggested words corresponding to the selected abbreviations and receiving input from the user to choose the desired word.

13. (original): The method of claim 1, further comprising the steps of the user selecting an abbreviation from the first data structure and inserting the abbreviation into the text at a position selected by the user.

14. (original): The method of claim 1, further comprising the steps of the user selecting an abbreviation from the second data structure and inserting the abbreviation into the text at a position selected by the user.

15. (original): A data processing method for maintaining and customizing a list of words, phrases, and abbreviations that are standard in a profession, industry, trade or occupation and for allowing the user to insert abbreviations from the list at any position in a text, comprising the steps of:

- (a) storing in a memory a first data structure encoding a plurality of words and corresponding abbreviations;
- (b) the user instructing the data processing method to select a position in the text for insertion of an abbreviation;
- (c) displaying a list of words and corresponding abbreviations from the first data structure;
- (d) the user instructing the data processing method to select an abbreviation from the list; and
- (e) inserting the selected abbreviation at the selected position in the text.

16. (original): The data processing method of claim 15, further comprising a step of adding to, editing, updating and customizing the first data structure and second data structure.

17. (original): A data processing apparatus for maintaining and customizing a list of words, phrases, and abbreviations that are standard in a profession, industry, trade or occupation, for insertion of abbreviations from the list into text, for converting selected words and phrases in the text to abbreviations, for converting selected abbreviations in the text to words and phrases, and for automatically converting a number of words and phrases to abbreviations, and abbreviations to words and phrases, throughout the text, comprising:

- (a) a computer having a memory, a central processing unit, and an input/output unit;
- (b) a first data structure recorded in the memory, the first data structure encoding a plurality of words and corresponding abbreviations;
- (c) a second data structure recorded in the memory, the second data structure encoding a plurality of abbreviations and corresponding words;
- (d) text in the memory containing words and abbreviations; and
- (e) a computer program executing in the central processing unit and defining structural and functional relationships among the plurality of words and the plurality of abbreviations, the computer program receiving information on the words and abbreviations to be selected from an operator through the input/output unit, and the computer program responding to operator selection of words and abbreviations, converting selected words to corresponding abbreviations, converting selected abbreviations to corresponding words, and inserting words and abbreviations into the text.

18. (original): The apparatus of claim 17, wherein the computer program displays a list of abbreviations corresponding to selected words to the operator through the input/output unit.

19. (original): The apparatus of claim 17, wherein the computer program displays a list of words corresponding to selected abbreviations to the operator through the input/output unit.

20. (original): The apparatus of claim 17, wherein the computer program automatically converts words selected by the computer program throughout the text to corresponding abbreviations.

21. (original): The apparatus of claim 17, wherein the computer program automatically converts abbreviations selected by the computer program throughout the text to corresponding words.

22. (original): The apparatus of claim 17, wherein the computer program responds to operator input to select a position in the text for insertion of an abbreviation, displays a list of words and abbreviations from the first data structure, and allows an operator to select an abbreviation for insertion at the selected position in the text.

EVIDENCE APPENDIX

None.

RELATED PROCEEDINGS APPENDIX

None. The previous related Appeal resulted in the Examiner's withdrawing his rejections, so there is no Board or court decision.